

Exhibit 5

WayneBerry@FCS2003.com

From: "Wesley W. Ichida" <wes@loio.com>
To: <WayneBerry@FCS2003.com>
Cc: "Maile M. Hirota" <maile@loio.com>; "Paul A. Lynch" <pal@loio.com>; "WFT" <THOMPSONHI@AOL.COM>; "Steven J. Kim" <sjk@loio.com>
Sent: Friday, July 27, 2007 11:09 PM
Subject: RE: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Mr. Berry: I thought I had answered this, but after checking my sent file, I apparently got mixed up with all the e-mails and calls from other clients, and did not finish it.

Lex was talking about the Firm's attorneys fees lien during our first morning conversation. I think it was about 9:00 or so. I told him that the Firm has not withdrawn yet, nor have we researched and reviewed the ethics of such an assignment, and whether it would be a breach of our fiduciary duty. I told him that in any event, I thought that the Agreement Tim drafted would be signed by you. [I thought that you would sign it because it was drafted by Tim and we virtually did not make any changes, and agreed to the numbers he had proposed]. (I did not tell him about who drafted the Agreement or anything about it.) This was before the conversation that he had with you on the line, where he told me that he did not intend to ask you to sign the Agreement, and that he will have his own agreements with you.

That was all. It was not mentioned again.

I assume you will not be attending the Motion on Monday. Please call me if you want to attend and let's discuss it before Monday. My cell no. is 230-5217, and it is on 24-7. Please feel free to call me anytime. If I do not answer, I will call you within the day.

Regards, Wes

From: WayneBerry@FCS2003.com [mailto:WayneBerry@FCS2003.com]
Sent: Friday, July 27, 2007 9:45 PM
To: Wesley W. Ichida
Subject: Re: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Mr. Ichida,

What leins are you talking about ?

What day and time did Smith ask you this and what did you tell him in repsonse ?

Sincerely,

Wayne Berry

----- Original Message -----

From: [Wesley W. Ichida](#)

To: [WayneBerry@FCS2003.com](#)

Cc: [Steven J. Kim](#) ; [Paul A. Lynch](#) ; [Maile M. Hirota](#) ; [WFT](#)

Sent: Friday, July 27, 2007 3:30 PM

Subject: RE: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Mr. Berry: I forgot. Lex asked me if we will consider selling/assigning our lien to them (assuming we withdraw and perfect our lien). Wes

From: WayneBerry@FCS2003.com [mailto:WayneBerry@FCS2003.com]

Sent: Friday, July 27, 2007 9:20 PM

To: Wesley W. Ichida

Subject: Re: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Importance: High

Dear Mr. Ichida,

Have you or anyone in your firm discussed any issues with Smith regarding me or my cases other than this request for an extension in the last two weeks ?

If so, please send me detailed information as to when those discussions were held, who was present and the particulars of what was discussed and any related notes or emails referencing those discussions.

Sincerely,

Wayne Berry

----- Original Message -----

From: [Wesley W. Ichida](#)

To: WayneBerry@FCS2003.com

Cc: [Steven J. Kim](#) ; [Maile M. Hirota](#) ; [Paul A. Lynch](#) ; [WFT](#)

Sent: Friday, July 27, 2007 2:55 PM

Subject: RE: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Mr. Berry: Lex and I just contacted the Court and Judge Kobayashi was not in today. We will try to see her at 9:30am, before the hearing, Monday. I will let you know. Regards, Wes

From: WayneBerry@FCS2003.com [mailto:WayneBerry@FCS2003.com]

Sent: Friday, July 27, 2007 8:27 PM

To: Wesley W. Ichida

Subject: Re: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Importance: High

Mr. Ichida,

Why don't you just call the court and try to get Smith on the phone in the meantime. If Smith does not get on and considering the circumstances of Mr. Hogan's departure, ask the court to turn the hearing into a status conference.

And after doing this, please file your planned motions to withdraw from my cases on-line immediately and send me a copy. That will give you the basis for the status conference.

Sincerely,

Wayne Berry

----- Original Message -----

From: [Wesley W. Ichida](mailto:Wesley.W.Ichida)

To: WayneBerry@FCS2003.com

Sent: Friday, July 27, 2007 2:06 PM

Subject: RE: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Mr. Berry: I would need to get the availability of Lex Smith first, but I certainly will try. Wes

From: WayneBerry@FCS2003.com [mailto:WayneBerry@FCS2003.com]

Sent: Friday, July 27, 2007 8:02 PM

To: Wesley W. Ichida

Subject: Re: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Importance: High

Mr. Ichida,

Looking at the current time and considering that this is the Friday, please assume that Smith does not have authority and call Judge Kobayashi now for the extension.

Sincerely,

Wayne Berry

----- Original Message -----

From: [Wesley W. Ichida](mailto:Wesley.W.Ichida)

To: WayneBerry@FCS2003.com

Cc: [Paul A. Lynch](mailto:Paul.A.Lynch) ; [Steven J. Kim](mailto:Steven.J.Kim) ; [Maile M. Hirota](mailto:Maile.M.Hirota) ; WFT

Sent: Friday, July 27, 2007 1:43 PM

Subject: RE: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Mr. Berry: I had asked Lex for an extension this morning. I just asked him again, and he said that he has to check with LA. If he does not have authority to stipulate to a 14 day extension, I will contact Judge Kobayashi this afternoon and apprise her of the situation and hope to get an extension. If not, I will ask Judge Kobayashi on Monday at the hearing and let you know. Regards, Wes

From: WayneBerry@FCS2003.com [mailto:WayneBerry@FCS2003.com]

Sent: Friday, July 27, 2007 7:43 PM

To: Wesley W. Ichida

Subject: Re: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Importance: High

Mr. Ichida,

I was just talking to Mr. Hogan as this email came in. I asked him about it and if he had seen this email. He has not. Mr. Hogan does not have this document and does he have access to it. As he said in his original email, it is in your computers and also available on Pacer.

Have you gotten an extension yet for the Monday hearing ?

Sincerely,

Wayne Berry
(808) 258-7144

----- Original Message -----

From: [Wesley W. Ichida](mailto:Wesley.W.Ichida)

To: tjh@timhogan.com ; [Steven J. Kim](mailto:Steven.J.Kim)

Cc: WayneBerry@FCS2003.com

Sent: Friday, July 27, 2007 1:09 PM

Subject: RE: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

Tim: Why don't you just tell us what the doc. Is or e-mail it to us. Wes

From: tjh@timhogan.com [mailto:tjh@timhogan.com]

Sent: Thursday, July 26, 2007 7:15 PM

To: Wesley W. Ichida; Steven J. Kim

Cc: WayneBerry@FCS2003.com; tjh@timhogan.com

Subject: FW: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

This is the email that contained the order that is relevant to Monday's hearing. You will need to find it in the Berry directory on the server or downloading it again off of pacer.

Tim

From: hid_resp@hid.uscourts.gov [mailto:hid_resp@hid.uscourts.gov]

Sent: Tuesday, July 24, 2007 5:03 PM

To: hawaii_cmecf@hid.uscourts.gov

Subject: Activity in Case 1:03-cv-00385-SOM Berry v. Hawaiian Express Ser, et al Link

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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U.S. District Court

District of Hawaii - CM/ECF V3.04 (3/07)

Notice of Electronic Filing

The following transaction was entered on 7/24/2007 at 5:03 PM HST and filed on 7/24/2007

Case Name: Berry v. Hawaiian Express Ser, et al

Case Number: [1:03-cv-385](#)

Filer:

WARNING: CASE CLOSED on 03/09/2006

Document Number: [1071](#)

Docket Text:

EO: COURT'S Inclination re [1065] MOTION to Compel. (Judge LESLIE E KOBAYASHI)
(wnn,)

1:03-cv-385 Notice has been electronically mailed to:

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The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1095854936 [Date=7/24/2007] [FileNumber=319110-0]
[5f32322e557dbe4688429bcc1ac6a82b689eb487a28855781fbd00fb7897ce8afd0
0ea0e7b1f46e9443052f9ce89b1bd97b85feb868fa022e0bd85b2b9ec499]]